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NOVAK DRUCE AND QUIGG LLP (Volvo)
1000 LOUISIANA STREET
FIFTY-THIRD FLOOR
HOUSTON TX 77002

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OFFICE OF PETITIONS

In re Application of : DECISION ON PETITION
Ockborn et al. :
Application Number: 10/709683 :
Filing Date: 05/22/2004 :
Attorney Docket Number: :
7589.176.PCUS00 :

This is a decision on the renewed petition under 37 CFR 1.137(b),¹ filed on December 28, 2007, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned on January 26, 2007, for failure to file a timely reply to the final Office action mailed on October 25, 2006, which set a three (3) month shortened statutory period for reply. No extensions of the time for reply were filed in accordance with 37 CFR 1.136(a). Notice of

¹ Effective December 1, 1997, the provisions of 37 CFR 1.137(b) now provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition filed under the provisions of 37 CFR 1.137(b) must be accompanied by:

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In a nonprovisional application filed on or after June 8, 1995, and abandoned for failure to prosecute, the required reply may also be met by the filing of a request for continued examination in compliance with § 1.114.

In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof. In an application abandoned for failure to pay the publication fee, the required reply must include payment of the publication fee.

(2) the petition fee as set forth in 37 CFR 1.17(m);

(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional; and

(4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c)).

Abandonment was mailed on May 30, 2007. The petition filed on October 3, 2007, was dismissed on December 20, 2007.

The subject renewed petition is accompanied by a Request for Continued Examination (RCE) and the required fee. Petitioner has requested that the amendment filed on October 3, 2007 be considered as the reply required under 37 CFR 1.114.

This application is being referred to Technology Center Art Unit 3726 for further processing.

Telephone inquiries concerning this matter may be directed to the undersigned at (571)272-3231.



Douglas I. Wood
Senior Petitions Attorney
Office of Petitions